

**Notice of Allowability**

Application No.

10/784,898

Applicant(s)

BRINKMAN ET AL.

Examiner

Susanna M. Diaz

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Examiner's amendment agreed to on November 21, 2006.
2. ☒ The allowed claim(s) is/are 21-36 and 39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Susanna Diaz*  
SUSANNA M. DIAZ  
PRIMARY EXAMINER

*Au3694*

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Irah Donner (Reg. No. 35,120) on November 21, 2006.

The application has been amended as follows:

Claim 37. (Cancelled)

Claim 38. (Cancelled)

39. (New) A computer decision support system for at least one of gathering, maintaining, and updating medical, pharmaceutical, demographic, psychographic, and health benefit information of members and providing medical, pharmaceutical, and customer service information and advice to at least one caller, and supporting at least one operator, comprising:

at least one communication system receiving by the at least one operator a communication from the at least one caller, the at least one operator receiving information in the communication from the at least one caller explaining the reason for the communication including a health related issue associated with at least one pharmaceutical that the at least one caller is currently using;

at least one database storing clinical information including clinical guidelines, clinical rules, clinical algorithms, clinical operating protocols, and clinical procedures

Art Unit: 3694

to assist the one or more operators in identifying recommended forms of treatment, medications, and courses of action for the at least one caller responsive to the communication received by said at least one communication system;

wherein said computer decision support system:

provides the at least one operator with member profile information associated with the at least one caller including health benefit plan information, prescription drug history, self-reported health information, and recent history, including, when present, a list of allergies, prescriptions, and pre-existing health conditions associated with the at least one caller;

provides the at least one operator access to said at least one database storing the clinical information including the clinical guidelines, the clinical rules, the clinical algorithms, the clinical operating protocols, and the clinical procedures to assist the at least one operator in identifying recommended forms of treatment, medications, and courses of action for the at least one caller responsive to the communication;

provides, prior to diagnosis by a physician with respect to the communication from the at least one caller and the health related issue relating thereto the at least one operator with pharmaceutical information including prescription drug side effects and complications that may be associated with particular drugs or combinations of drugs that the caller is currently using or which the one or more over-the-counter medications operators intend to

Art Unit: 3694

recommend, and health benefit information including insurance company rules, member information, and benefit plan resources associated with the pharmaceutical information;

provides, prior to the diagnosis by the physician the member profile information including the health benefit plan information, the prescription drug history, the self-reported health information, and the recent contact history, with the pharmaceutical information, the clinical rules, the clinical guidelines, and the clinical algorithms to assist the one or more operators in providing advice for the communication;

generates, prior to the diagnosis by the physician, at least one of alerts and messages that are designed for the communication by caller, the messages including at least one of appropriate prescription drug use, medications the caller should avoid or use in moderation or speak to a physician before using, suggested forms of treatment based on the caller's symptoms, prescription refill reminders, and prescription renewal reminders;

generates at least one of reports with respect to the health related issue and notices including information collected during the communication with the caller, combined with specific pharmacy information, for delivery to at least one of the physician of the caller, and the caller's health plan with respect to the health related issue;

receives by the at least one of the physician of the caller and the caller's health plan the at least one of reports and notices to assist performing health care services by the one of the physician or the caller's health plan;

performs at least one follow up action using the member profile information including at least one of the health benefit plan information, the prescription drug history, the self-reported health information, and the recent contact history in combination with the messages including the appropriate prescription drug use, the suggested forms of treatment based on the caller's symptoms, the prescription refill reminders, and the prescription renewal reminders; and

performs at least one new action using the member profile information including the health benefit plan information, the prescription drug history, the self-reported health information, and the recent contact history when at least one of the clinical information, the pharmaceutical information and the health benefit information are updated.

***Reasons for Allowance***

2. Claims 21-36 and 39 are allowed.
3. The following is an examiner's statement of reasons for allowance:

Applicant's arguments presented in the after-final response filed on November 7, 2006 are deemed to be persuasive, especially in relation to the distinctions between the claimed invention over the Tallman, Donnelly, Albaum, and Moench references. Most notably, in Applicant's conclusion, "Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with distinguishing over the prior as limiting to those specific features in isolation. Rather, Applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable." The Examiner agrees that claims 21-36 and 39 are deemed to be allowable over the prior art because the combination of recited limitations as a whole would not have been obvious to one of ordinary skill in the art at the time of Applicant's invention, even in light of the prior art teachings of record. Additionally, Edelson (U.S. Patent No. 5,737,539) discloses a prescription creation system that performs various prescription management functions, such as sending notifications of unfilled prescriptions, electronically prescribing medication based on patient-specific information (including symptoms, diagnoses, adverse drug reactions, allergies, and insurance information), providing access to promotion materials from drug manufacturers, providing formulary guidelines, maintaining audit trails of access to data records, providing drug alerts and drug disclosure information, sending reminders of prescription expiration dates and refill information, and coordinating with drug benefits of a patient's health plan. Edelson's system is primarily utilized by a physician and does not expressly teach that the various recited providing steps (i.e., providing the one or more

Art Unit: 3694

operators with pharmaceutical information..., providing the member profile information including health benefit plan information..., and generating at least one of alerts and messages that are designed for the communication by caller...) are performed *prior* to the diagnosis by a physician. Furthermore, Edelson does not expressly gather a recent contact history, as recited in the claimed invention. Again, while Tallman, Donnelly, Aibaum, Moench, and Edelson all recite various aspects of the claimed invention, the Examiner submits that the combination of all of the recited features in a single, unified system/method is unobvious in light of the prior art of record; therefore, claims 21-36 and 39 are deemed to be allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Schrier et al. (U.S. Patent No. 6,317,719) -- Discloses a system that provides patient-specific drug information, based on patient profile data (including drug allergies, drug interactions, etc.).

Art Unit: 3694

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Susanna M. Diaz  
Primary Examiner  
Art Unit 3694

November 22, 2006